Supreme Court, U.S.
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No. 99-1275

In the
Supreme Court of the United States

ESTATE OF DOLORES B. SCHEIDLY

V

TRAVELERS INSURANCE COMPANY

Respondent

JOSEPH M. SCHEIDLY

Petitioner

On Petition for A Writ of Certiorari to the United States Court of Appeals for the Third Circuit

PETITIONERS REPLY TO RESPONDENTS RESPONSE

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4 pp

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TO
RESPONDENTS RESPONSE

Travelers Insurance Company (Travelers) has made it clear they are relying on the 3rd Circuit and District Courts Decision that used unambiguous language in re-litigation of an insurance Complaint that was not properly served. Travelers was served by the Plaintiff with a "Motion for Summary Judgment" Appendix (F,G) of the appeal and is clear on its face declaring the denial of a petition in the Delaware County Court of Common pleas , to vacate an illegal arbitration award , a counter petition by Travelers to confirm an arbitration award belong to the indispensable party and contrary to the Pennsylvania Uniform Arbitration Act

Travelers Argues in the statement of their response on page 2 at lines 23,24 & 25 that they filed a Motion to Dismiss the Complaint pursuant to Fed R. Civ P. 12 (b) (6). In construing Travelers Motion to Dismiss the Complaint, see Appendix F of the appeal . The Plaintiff Scheidly finds that Fed. R. Civ . P 12 (b) (6) or its language was never suggested by Travelers in their Motion to Dismiss the Complaint and seems to be a false statement (28 U.S.C sec. 1623) to miss lead this Honorable Court to support a judgment in their favor.

Travelers admits they deliberately ignored Scheidlys "Motion for Summary Judgment", properly served and pursued a Complaint *thaī was not* properly served when they stated in the footnote of their Motion to Dismiss Complaint , Exhibit H of the appeal , That ; "The document filed by the plaintiff would appear to be improper under Fed. R. Civ. P.3 However for the purpose of this Motion , the Defendant is treating the first filling as Complaint properly filed

under the Federal Rules of Civil Procedure rather than a "Motion for Summary Judgment" .

The Complaint referred to by Travelers in their Motion to Dismiss Complaint is the same complaint that was used by Scheidly to invoke action required under Fed R. Civ. P.3 prior to serving Travelers a "Motion for Summary Judgment" Pursuant to Fed. R. Civ. 4 clearly declares that ; Plaintiff Dolores B. Scheidly *files the following complaint in a "Motion for Summary Judgment"* Rule 56 (a) Against Travelers Insurance Company for the Malicious use of Process , Abuse of Process , denial of the Constitutional right to Due Process and the equal protection of law, see page 9a Appendix E of the appeal. And does not suggest a Complaint in re-litigation of insurance benefits as Suggested by Travelers in their Motion to Dismiss Complaint filed in the District Court and later moved to the 3rd Circuit .

Travelers "says nothing" and sets fort no matter of fact for their deliberate denial to refuse to answer a summons served upon them under Fed. R. Civ. 12 (a) for a "Motion for Summary Judgment" ,see Appendix F of the appeal .

CONCLUSION

Under the circumstances of this reply and the appeal ; a writ of Certiorari should be granted and the matter moved to the United States Supreme Court with a judgment considered against Travelers on the merit "For Want of a plea" because Travelers refused to answer the summons served upon them for the "Motion for Summary Judgment" and especially the denial of Scheidlys Constitutional rights under the Fifth and Fourteenth Amendments to the United States Constitution to be heard in a fair Due Process for the "Motion For Summary

Judgment" properly served under Federal Rule of Civil Procedure 4 .

Respectfully Submitted

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